BREYFOGLE ESTATE

Box .....
Index No. .....

This Abstract MUST be returned at once to
JAS. A. CLAYTON & CO.

ABSTRACT OF TITLE
OF PROPERTY OF
Must be returned to
Probate Proceedings
Breyfogle Estates.

TO

Probate proceedings in Estates of Charles W. Breyfogle dec'd of Olivia M. Breyfogle. Also proceedings in suit of Edwin S. Breyfogle vs Chas E. Breyfogle. Also proceedings in matter of ~~COUNTY OF SANTA CLARA,~~ Chas. E. Breyfogle an ~~STATE OF CALIFORNIA.~~ incompetent

As Shown by the Records of Said County.

Dated Jan. 12 1901

Made at the Request of

Wooster & Whitton.

San Jose Abstract Company,

Bank of San Jose Building,

SAN JOSE, CALIFORNIA.

SAN JOSE ABSTRACT CO.

NILES E. WRETMAN
ATTORNEY-AT-LAW
GARDEN CITY BANK BUILDING
SAN JOSE, CALIFORNIA

TELEPHONE, BLACK 1411

San Jose, Calif., May 14th, 1914.

Mr. Osmun Johnson,
San Jose, Calif.

Dear Sir:-

This is to certify that I have examined abstract of title to Lots H and K, according to map thereof now of record in Book "M" of Maps, page 7, Records of Santa Clara County, California, said Lot H containing 4.15 acres, and Lot K containing 2.37 acres, and find that title thereto is now vested in Alfred Shoblo and Ramona M Shoblo, his wife, free and clear of all encumbrances save and except:

First, the taxes for the year 1913-14, now delinquent, and the taxes for 1914-15 are now a lien but not yet due or payable.

Second, There is a deed of trust given to secure the sum of $350.00 dated Nov. 7th, 1910, now held by Lloyd L. Edwards, It is understood that this will be released out of moneys furnished by you.

In other respects the title to the propery is as above indicated.

Very respectfully,

N. E. Wretman

A B S T R A C T

of the

Proceedings in the Matter of the Estate of

CHARLES W. BREYFOGLE, deceased

Superior Court, County of Santa Clara, Estate No. 3378; and

Estate of OLIVIA M. BREYFOGLE, deceased,

Superior Court, County of Santa Clara, Estate No.3713.

Also,

Proceedings in the Estate and Guardianship of

CHARLES EDWIN BREYFOGLE, an incompetent person,

Superior Court, County of Santa Clara, Estate No.3822.

Also,

Proceedings in the suit entitled EDWIN S.BREYFOGLE

Trustee &c. vs. CHARLES EDWIN BREYFOGLE. Case No.13566,

Superior Court, County of Santa Clara.

SAN JOSE ABSTRACT COMPANY
SAN JOSE, CAL.

Superior Court

of the

County of Santa Clara.

In the Matter of the Estate

of

Charles W. Breyfogle, deceased.

Reg. I Page 67. Estate 3378.

1895

Mch 7 Will filed. (Copy)

In the Name of God, Amen:

I, Charles W. Breyfogle, of the County of Santa Clara, State of California, of the age of Forty-seven years, and being of sound and disposing mind and memory and not acting under duress, menace, fraud or undue influence of any person whatever, do make, publish and declare this my last Will and Testament in manner following, that is to say:

First: I declare that I am married, and that there are now living my wife, Olivia M. Breyfogle, and our children Stella M. Breyfogle, Charles W. Breyfogle, and Vida Field Breyfogle, and name them here to show that I am fully mindful of them.

Secondly, I nominate and appoint my said wife Olivia M. Breyfogle and my friend George M. Bowman, the Executrix and Executor of this will, to act as

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such without being required to give bonds or security, for the performance of their duties or the exercise of their powers hereunder, hereby giving and granting them full authority to sell ,convey dispose of or in any other manner deal with any and all of the property belonging to my estate of every kind and character whether real or personal, and invest the proceeds thereof, as they think best for the interest thereof, without having to obtain the consent or order of any Court, but in so doing and in all transactions relating to said property, it is my will that they both act.

Should the said George M. Bowman fail or refuse to or cannot qualify or is removed as such Executor then and in such event, I nominate and ask to have appointed to serve with my said wife,to relieve her as much as possible from the cares of the business incident to the management of my estate, my other friend D. G. Kent, to act also without bond.

Having full confidence in the integrity of my said wife and all faith in her motherly care of our children above named and any and all that may hereafter be born to us. I hereby give,devise,and bequeath to her, all my property and estate of ever kind, both real, personal and mixed, whether in possession or expectancy, in full ownership, and direct my said Executrix and Executor or any other person appointed to carry out the provisions of this Will,

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after first paying all my just debts and proper expenses incurred after my death to turn over, deliver and cause to be distributed to her, the said Olivia M. Breyfogle, all of said property wherever situated, and I hereby nominate her the guardian of any and all our minor children to act as such without giving bonds.

Should the persons named above as Executors to act in conjunction with my said wife, not be appointed as such or should my said wife not qualify as Executrix, it is my wish that the proper Court appoint a fit and competent person to carry out the provisions hereof but in such case bonds are not dispensed with.

I hereby revoke any and all Wills heretofore by me made.

In Witness Whereof, I have hereunto set my hand and seal this Fifteenth day of February A.D.1888.

C. W. Breyfogle (Seal)

Witness: E.J. Wilcox.

Thos. F. Morrison.

Mch 7

Petition of Olivia M. Breyfogle and George M. Bowman for Probate of Will, filed.

Shows: That Charles W. Breyfogle died on or about Feby.27th 1895, at the County of Santa Clara State of California, being at the time of his death a resident of said County and leaving estate there-

1895

in consisting of real and personal property the revenue and character of which are as follows:

Real Estate in said County.

S.1/2 of Lot 5 Block 4, Range 3 North in City of San Jose, Assessed and valued at $4360.00

Improved and producing an annual revenue of $360.

Lot 3 Block 10 in Garden City Tract,

Assessed and valued at $400.

Not improved and producing no revenue.

W. 50 feet Lot 3 Block 18 University Grounds,

Assessed and valued at $1850.

Improved, but producing no revenue.

Lots 1 and 2 Pierce Subdivision of Lots 3 and 4 Morrison Tract

Assessed and valued at $4100.00

No improvements and producing no revenue.

Lot 3 Block 15 University Grounds

Assessed and valued at $2000.00

No improvements and producing no revenue.

Undivided 1/3 Melville Block, City of San Jose.

Assessed and valued at $7000.00

Improved and producing an annual revenue of an uncertain amount.

An interest in the Estate of the father of said deceased of large value, but the exact amount cannot be stated.

Personal Property

Valued at $17885.77.

1895

That the value of the estate and effects does not exceed the sum of $100,000.oo.

That said deceased left a will bearing date the 15th day of February 1888 in the possession of Garden City Bank and Trust Company, which petitioners believe and therefore allege to be the last Will and Testament of said deceased, and which is herewith presented to said Superior Court.

That Olivia M. Breyfogle and George M.Bowman are named in said Will as Executors thereof,and Olivia M. Breyfogle aged about 52 years residing at San Jose, Cal. is named therein as sole legatee and devisee.

That the subscribing witnesses to said Will are E. J. Wilcox, and Thomas F. Morrison, both residing in the City of San Jose, County of Santa Clara, State of California.

That the next of kin and heirs at law of said testator and the names, ages and residences of said heirs are Olivia M. Breyfogle widow of said deceased aged about 52 years, and the three children of said deceased Stella Mabury Breyfogle aged about 24 years, Charles W. Breyfogle aged about 19 years and Vida Field Breyfogle aged about 15 years,all residing in the City of San Jose, State of California.

That at the time said Will was executed the said testator was of the age of 46 years or thereabouts and was of sound and disposing mind and not acting

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under duress,,menace, fraud or undue influence and was in every respect competent by last will to dispose of all his estate.

That said Will is in writing signed by said testator and attested by said subscribing witness,at the request of said testator subscribing their names to the said will in the presence of the said testator and in the presence of each other; and that petitioners are advised and therefore allege said witnesses at the time of attesting the execution of said will, were, and are now competent.

That said executors accept said trust and consent to act as such executors.

Pray that the said Will may be admitted to probate and that Letters Testamentary be issued to them &c.

Dated March 7th 1895.

(sgd) Olivia M. Breyfogle.

George M. Bowman

S.F.Leib, Atty for Petitioners.

Mch 7

Order appointing Friday March 22,1895,day for proving said Will and hearing said Application for the issuance of Letters Testamentary thereon,and directing that notice be given thereof by the Clerk by publication not less than ten days before said 22d day of March 1895, in the San Jose Daily Mercury and that copies of said notice of the time appointed &c. be addressed to the heirs of said Testator

1895	resident in this said State at their respective places of residence as set forth in said petition, and deposited in the U.S.Post Office at the City of San Jose, County of Santa Clara, with the postage thereon prepaid, at least ten days before the said date of hearing said petition, made, entered and filed. Pro.Rec.51p.324.
Mch 7	Clerk's Notice showing appointment of March 22, 1895, for proving said Will and hearing said application for the issuance of Letters Testamentary thereon, filed.
Mch 11	Affidavit of W. Denker that on March 11,1895,he deposited in the U.S.Post Office at the City of San Jose, County of Santa Clara, a true copy of the Notice of Time and place appointed for proving said Will and hearing said Application for the issuance of Letters Testamentary thereon, enclosed in an envelope with the proper and necessary postage prepaid thereon, and addressed to Olivia M.Breyfogle, San Jose, Santa Clara County, Cal. Stella Mabury Breyfogle, San Jose, Santa Clara County,Cal. Charles W. Breyfogle, San Jose, Santa Clara Co.Cal. and Vida Field Breyfogle, San Jose, Santa Clara Co. Cal. filed.
Mch 22	Affidavit of D. M. Foltz principal Clerk of the San Jose Mercury Publishing and Printing Company, the printers of the San Jose Daily Mercury of publi-

1895	cation of Notice of time and place appointed for proving said Will and hearing said application for the issuance of Letters Testamentary thereon, in said news paper, daily, for two successive weeks, from the 8th day of March 1895 to the 22d day of March 1895, inclusive, filed.
Mch 22	Testimony on Probate of Will filed.
Mch 22	Certificate of Proof of Will filed.
Mch 22	Order admitting Will to probate and appointing Olivia M. Breyfogle, and George M. Bowman, Executors thereof, and directing Letters Testamentary to issue to them upon taking the oath as required by law made, entered and filed. Pro.Rec.50 p.30
Mch 22	Letters Testamentary (with oath annexed) issued to Olivia M. Breyfogle and George M.Bowman and filed. Recorded in Book F of Letters page 73.
Mch 26	Will and Certificate of Proof recorded in Book I of Wills pages 223 and following.
Apl 30	Order appointing T. F. Morrison, T.S.Montgomery and Wm. Simpson M.D. Appraisers made, entered and filed. Pro.Rec.44 p.304.
May 6	Order of Publication of Notice to Creditors, in a newspaper printed and published in the County of [illegible]

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1895	Santa Clara, at least once a week for four weeks made, entered and filed. Pro. Rec.44 p.428.
June 7	Affidavit of H. A. De Lacy principal Clerk of the San Jose Mercury Publishing and Printing Company, the printers of the San Jose Daily Mercury of publication of Notice to Creditors, in said newspaper, daily,for four successive weeks from the 7th day of May 1895, to the 7th day of June 1895, inclusive, filed.
1896	
Mch 24	Inventory and Appraisement filed. Moneys belonging to the deceased which have come to the hands of the Executors $215.77 Real Estate South one half of Lot 5 in Block 4, Range 3 North of the base line in the City of San Jose,County of Santa Clara, State of California, having a frontage of 25 varas on the West line of Third Street and a uniform depth Westerly of 50 varas. Land appraised at $4800.oo Improvements thereon appraised at $1000.oo Lots 1 and 2 as per map of lots in the Morrison Tract property of R. T. Pierce, said map being of record in the office of the County Recorder of said Santa Clara County, in Book B of Maps page 55, Records of said Santa Clara County, recorded March

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25,1887 having a frontage of 114 feet on the North side of the Alameda by a uniform depth of 200 feet, and being in the County of Santa Clara, State of California. Appraised at $4845.00

Lot 3 Block 15 in University Tract, situated at the South West corner of Elm and Emory Streets being in the County of Santa Clara, State of California, and being 200 feet square.

Appraised at $2500.00

Undivided one third interest in a certain piece of land and improvements in the City of San Jose, County of Santa Clara, State of California, described as beginning at the South Westerly corner of First and Julian Streets; and thence Southerly along the Westerly line of First Street 87 6/12 feet; thence at right angles Westerly 100 feet; thence at right angles Northerly 87 6/12 feet to the Southerly line of Julian Street 100 feet to the point of beginning being part of Lot 1 Block 4, Range 1 North of the base line of said City, said interest in said lands being appraised at $3645.80

Said interest in said improvements appraised at $5000.00

Lot 3 Block 10 of the Garden City Tract in the County of Santa Clara, State of California,

appraised at $200.00

1896	West 50 feet of Lot 3 Block 18 of the University Tract in the County of Santa Clara, State of California, with improvements. Said land appraised at $625.00 Said improvements appraised at 500.00 (and certain personal property) Total appraised value $38991.57 The whole of the estate mentioned in the foregoing Inventory is Community property. N o t e : The Notarial Seal to the Affidavit of the Executrix and Executors to foregoing Inventory is not affixed, otherwise properly verified.
1897	
Jany.15	Decree establishing Due and Legal Notice to Creditors made, entered and filed. Pro.Rec.44 p.620.
Jany.18	Final account of George M. Bowman as surviving Executor of the last Will of Charles W.Breyfogle, deceased, filed.
Jany.18	Petition of George M. Bowman as surviving Executor of the last Will of Charles W. Breyfogle deceased, for distribution of Estate, filed. Shows: That petitioner George M. Bowman and Olivia M. Breyfogle were appointed as Executors of the last will of Charles W. Breyfogle deceased,by order of this Court on March 22,1895, and on the

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same day they qualified as such Executors and thereupon entered upon the administration of the estate of said deceased and ever thereafter until the death of the said Olivia M.Breyfogle,which occured in the latter part of the year 1896, the said Executors continued to administer upon said estate and after the death of Olivia M. Breyfogle the said George M. Bowman continued as sole executor to administer upon said estate.

That on March 20,1896, said executors duly made and returned to this Court a true Inventory and appraisement of all the estate of said deceased which had come to their possession or knowledge but included therein by inadvertence (certain personal property)

That on May 8,1895, said executors duly published notice to Creditors to present their claims against said deceased in the manner and for the period prescribed by this Court.

That more than one year has elapsed since the appointment of petitioner as such Executor and more than one year has elapsed since the publication of said notice to said creditors .

That petitioner files his final account herewith as such executor, which said account after due hearing and examination he prays may be finally settled.

That all the debts of said deceased and of

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said estate and all the expenses of the administration thereof thus far incurred and all taxes that have accrued against said estate have been paid and discharged and said estate is now in a condition to be closed.

That the residue of said estate now remaining in petitioner's hands is fully set forth and described as follows:

REAL ESTATE.

(Same as described in Inventory and appraisement)

(and certain personal property)

That the said estate was the community property of said deceased.

That the said Charles W. Breyfogle died testate in the County of Santa Clara, State of California, on Feby.27th 1895, leaving him surviving his wife, Olivia M. Breyfogle and his children Stella M. Breyfogle, Vida Field Breyfogle and Charles W.Breyfogle.

That by said will he left the whole of his property to his said surviving wife Olivia M.Breyfogle, who had she been living would now be entitled to the distribution of the whole thereof.

That on October 17th 1896 the said Olivia M.Breyfogle died in and was a resident of the County of Santa Clara,State of California, leaving a last Will and Testament, naming and appointing therein as her executors A. Mc Donald,T.F.Morrison and E.S.Brey-

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fogle and left her property by said will to her children in the proportions as therein stated.

That said will was thereafter and in the month of November 1896, duly admitted by order duly given and made by this Court to probate. And the said Court appointed the said A. Mc Donald, T.F.Morrison, and E. S. Breyfogle as Executors of said Will.

That the said E. S. Breyfogle never qualified as such executor but the said A. Mc Donald and T.F. Morrison thereupon duly qualified as such Executors and have ever since continued to act as such and they as the executors of the last Will of the said Olivia M. Breyfogle deceased are entitled to have distributed to them the property now on hand for distribution in the estate of Charles W.Breyfogle.

Prays that the administration of said Estate of Charles W. Breyfogle deceased may be brought to a close and that he may be discharged from his trust as such Executor and that after due notice given and proceedings had, the estate of Charles W.Breyfogle,deceased remaining in the hands of petitioner as aforesaid may be distributed to the parties entitled thereto as aforesaid to wit: the said A. Mc Donald and T.F.Morrison as the Executors of the last Will of Olivia M. Breyfogle deceased for the purpose of the Administration of her estate and thereupon for the purpose of the distribution by

1897	this Court in the matter of her said estate in accordance with her said will. Dated Jany.15,1897. (sgd) Geo. M. Bowman, Surviving Executor. of the last Will of Charles W. Breyfogle, deceased.
Jany.18	Order appointing Friday January 29,1897 day for the settlement of said Final Account and hearing upon said petition for Distribution and directing the Clerk to give notice thereof by causing notices to be posted in at least three public places in this Santa Clara County, at least ten days before said day of settlement and hearing for distribution according to law, made, entered and filed. Pro.Rec.50 p.427.
Jany.18	Clerk's Notice showing appointment of Jany.29th 1897 for settlement of said Final Account, and hearing upon said Petition for Distribution, filed.
Jany.19	Affidavit of W. Denker of posting on Jany.18,1897 exact and true copies of the Notice of time and place appointed for the settlement of said Final Account and hearing upon said Petition for Distribution in three of the most public places in said County of Santa Clara (naming them) filed.
Jany.20	Vouchers filed.

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Jany.29 Order continuing hearing upon the settlement of said Final Account and Petition for Distribution, one week made and entered.

Pro.Rec.52 p.480.

Feb.5 Decree of Settlement of Final Account and Distribution of Estate made, entered and filed.

Pro.Rec.48 p.622.

George M. Bowman as the surviving executor of the last Will of Charles W. Breyfogle deceased having on January 18,1897 rendered and filed herein a full account and report of the administration of said estate, of himself and his deceased co-executor Olivia M. Breyfogle which account was for a final settlement and having with said account filed a petition for the final distribution of the estate.

And said account and petition this day coming on regularly to be heard, proof having been made to the satisfaction of the Court, that the Clerk had given notice of the settlement of said account and the hearing of said petition, in the manner and for the time heretofore ordered and directed by the Court; And that the same was regularly continued to this day.

And it appearing that said account is in all respects true and correct and that it is supported by proper vouchers, that the residue of money in the hands of said surviving executor at the time of

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filing said account was $486.60; that since the rendition of said account nothing has been received by the said surviving executor.

And it appearing that all claims and debts against said decedent all taxes on said estate, and all debts, expenses and charges of administration have been fully paid and discharged and that said estate is ready for distribution and in condition to be closed.

That said Charles W. Breyfogle died testate in the County of Santa Clara, State of California, leaving him surviving as his sole heirs at law, his widow, Olivia M. Breyfogle and his children Stella M. Breyfogle (now Stella M.Mc Donald), Vida Field Breyfogle and Charles E. Breyfogle and his sole legatee and devisee his said widow Olivia M.Breyfogle, and that since the death of said Charles W.Breyfogle, to wit: on October 17th 1896, the said Olivia M. Breyfogle died leaving her surviving as her sole heirs at law her children said Stella M.McDonald, Vida Field Breyfogle and Charles E.Breyfogle, that she left a will giving all the property hereinafter described in equal shares as follows, viz:

One third thereof to Stella M.Mc Donald, one third thereof to Vida Field Breyfogle and one third thereof in trust to Edwin S. Breyfogle for the maintenance and support of said Charles E.Breyfogle, during his life and then in equal shares to said

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Stella M. McDonald and Vida Field Breyfogle; that said will of Olivia M.Breyfogle nominated T.F.Morrison, A. Mc Donald, and Edwin S. Breyfogle as the executors thereof, all of whom except said Edwin S. Breyfogle have qualified and are the executors of her said Will.

Now therefore, It is Ordered, Adjudged and decreed that the said final account of the surviving executor be and the same is hereby finally settled, allowed and approved and that the residue of said estate hereinafter described and any other property not now known or discovered, which may belnng to the said estate, or in which the said estate may have an interest, be and the same is hereby distributed as follows:

One undivided third thereof to Stella M.McDonald .
One undivided third thereof to Vida Field Breyfogle
One undivided third thereof to Edwin S.Breyfogle in trust for the maintenance and support of Charles E. Breyfogle during his life and on the death of said Charles E. Breyfogle then in fee simple in equal shares to said Stella M.Mc Donald and Vida Field Breyfogle, that said distribution is made subject to the administration of such property in the estate of said Olivia M. Breyfogle deceased and the possession thereof, for the purpose of such administration is hereby distributed to the executors of said last will of said Olivia M.Breyfogle, deceased.

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The following is a description of the said residue of said estate referred to in this decree and of which distribution is now ordered as aforesaid.

Real Estate.

South 1/2 of Lot 5 in Block 4, Range 3 North of the base line in the City of San Jose, County of Santa Clara, State of California, having a frontage of 25 varas on the West line of Third Street and a uniform depth Westerly of 50 varas.

Lots 1 and 2 as per map of lots in the Morrison Tract property of R. T. Pierce, said map being of record in the office of the County Recorder of said Santa Clara County, in Book B of Maps page 55, Records of said Santa Clara County, recorded March 25th 1897, having a frontage of 114 feet on the North side of the Alameda, and a uniform depth of 200 feet, being in the County of Santa Clara, State of California.

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Lot 3 in Block 15 in the University Tract situated at the Southwest corner of Elm and Emory Streets, being in the County of Santa Clara, State of California, and being 200 feet square.

Undivided one third interest in the certain piece of land and improvements, in the City of San Jose, County of Santa Clara, State of California, described as beginning at the Southwesterly corner of First

1897	and Julian Streets; thence Southerly along the Westerly line of First Street 87 6/12 feet; thence at right angles Westerly 100 feet; thence at right angles Northerly 87 6/12 feet to the Southerly line of Julian Street, 100 feet to the point of beginning, being part of Lot 1 Block 4, Range 1 North, of the base line of said City. Lot 3 Block 10 of the Garden City Tract in the County of Santa Clara, State of California. West 50 feet of Lot 3 Block 18 of the University Tract in the County of Santa Clara, State of California. (and certain personal property) Dated Feby.5,1897. (sgd) M. H. Hyland, Superior Judge of the County of Santa Clara, State of California. N o t e : A certified copy of foregoing Decree was recorded in the office of the County Recorder of the County of Santa Clara, State of California, on February 5th 1897, in Liber 197 of Deeds page 99.
Mch 5	Receipt of A. Mc Donald and Thos. F. Morrison, Executors of the last Will of Olivia M.Breyfogle,deceased, on Distribution, filed.
Mch 5	Decree of Final Discharge of George M.Bowman,Executor,&c.made,entered and filed. Pro.Rec.58 p.322.

IN THE Superior COURT, COUNTY OF SANTA CLARA,

STATE OF CALIFORNIA.

In the Matter of the Estate

of

Olivia M. Breyfogle, deceased.

Estate 3713. Reg. J page 536.

1896

Oct.24 Will of decedent, filed. Copy:

"Know all men by these presents: That I, Olivia M. Breyfogle hereby make, publish and declare this as my last Will and Testament, viz:

First: I have three children namely, Stella B. McDonald, Charles Edwin Breyfogle, and Vida Field Breyfogle.

Second: I hereby give to my two daughters Stella B. McDonald and Vida Field Breyfogle, all my household furniture, jewelry, silverware, glassware pictures, books and ornaments and wearing apparel in equal shares, excepting the portrait of my deceased husband given me by Dr. E.S.Breyfogle, which picture I give to him. The large Piano actually belongs to my said daughter Vida.

Third: All the rest, and residue of my property I divide into three equal undivided shares and I give one of said equal undivided shares to my daughter Stella B. Mc Donald, and I give one of said equal undivided shares to my daughter Vida Field

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Breyfogle and I give the other equal undivided share to Dr. Edwin S. Breyfogle, in trust for my son Charles Edwin Breyfogle to be held by the said Dr. E. S. Breyfogle as such trustee during the life of my said son Charles Edwin Breyfogle, and then I give the same in equal undivided shares to my said daughters Stella B. Mc Donald and Vida Field Breyfogle.

I direct such trustee to keep the property thus devised to him invested so as to bring as much revenue as is consistent with safety, and out of the property so devised to him or its revenue, he provide for the maintenance and support of my said son during his lifetime, my said son being incompetent to transact business or manage his own affairs.

Fourth: I hereby nominate and appoint Dr. Edwin S. Breyfogle as the Guardian of the person and estate of my said son Charles Edwin Breyfogle, an incompetent.

Fifth: I hereby nominate and appoint Dr. Edwin S. Breyfogle, T.F. Morrison and Archibald Mc Donald, as Executors of this will, and give them full power to sell any of my property without previous order of the Court, I direct that they serve as such executors without bond, and that said Dr. Edwin S. Breyfogle serve as such trustee and guardian as above mentioned without bond.

Sixth: I request that none of my children dress

1896 in mourning after my death.

In witness whereof I have hereunto set my hand and seal this 14th day of October A.D.1896.

Olivia M. Breyfogle (Seal) "

Subscribing witnesses to execution of Will-

S. F. Leib, San Jose, Cal.

C. M. Lorigan, Santa Clara, Cal.

Oct.24 Petition of T. F. Morrison and Archibald Mc Donald, for probate of Will, filed, Shows:

That Olivia M. Breyfogle died on or about October 17th 1896 in the City of San Jose, County of Santa Clara, State of California, and at the time of her death was a resident of said County and State,and left estate consisting of real and personal property, the probable value,character and revenue of which is as follows:

House and lot at the Northwest corner of Third and St. James Streets in said City of San Jose, County of Santa Clara, State of California,being the the home of said deceased, in her lifetime,the value thereof being about $15000. and the probable annual revenue therefrom being about $1200.

Lots 20 and 21 of the Garden City Tract in the County of Santa Clara, State of California, the value thereof being about $200. and producing no revenue.

Bonds, stocks and promissory notes of the probable

1896

value of $33690. and the probable annual revenue of about $2759.

Interest of said Olivia M.Breyfogle in the Estate of her deceased husband Charles W.Breyfogle which said last estate is in process of probate in the Superior Court of said County of Santa Clara, the value of said interest being about $39000. and producing an annual revenue of about $3000.

(and other personal, valued at $680.)

Cash on Deposit in Garden City Bank and Trust Company, $2238.90 producing no revenue.

That the value of the estate and effects does not exceed the sum of $90,000.

That said deceased left a will bearing date October 14th 1896 among her papers in the Garden City Bank and Trust Company, which your petitioners believe and therefore allege to be the last will and testament of said deceased, which is herewith presented to said Superior Court.

That Dr. Edwin S. Breyfogle, T.F.Morrison, and Archibald Mc Donald are named in said will as executors thereof, and Dr. Edwin S. Breyfogle, aged about 42 years, residing at the Palace Hotel, in the City of San Francisco, State of California, Dr.Edwin S. Breyfogle, Trustee, aged about 42 years, residing at the Palace Hotel, in the City of San Francisco, State of California, Stella B.Mc Donald, aged about 26 years, residing in the City of Columbus, State

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1896.

of Ohio, Vida Field Breyfogle, aged about 16 years residing at the Northwest corner of Third and St. James Street in the said City of San Jose, County of Santa Clara, State of California, are named therein as devisees.

That Dr. Edwin S. Breyfogle and Dr.Edwin S.Breyfogle Trustee, are one and the same person, and that he is now temporarily absent from the State of California being in Berlin,Germany.

That the next of kin and heirs at law of said testatrix and the names, ages and residences of said heirs are as follows,,viz:

Stella B. Mc Donald, aged about 26 years,residing in the City of Columbus, State of Ohio.

Vida Field Breyfogle,aged about 16 years,residing at the Northwest corner of Third and St.James Streets in the City of San Jose, County of Santa Clara, California, and

Charles Edwin Breyfogle, aged about 21 years,residing at the Northwest corner of Third and St. James Street in said City of San Jose,County of Santa Clara,State of California, being the children of said deceased.

That at the time said will was executed,said testatrix was of the age of 56 years,was of sound and disposing mind and competent by last will to dispose of all her estate.

That said T. F. Morrison and Archibald Mc Donald

two of the parties named in said will as Executors thereof hereby consent to act as such Executors. That said Edwin S. Breyfogle the other party named in said will as Executor thereof is at present temporarily absent from the State of California, being in Berlin,Germany, and your petitioners are advised and believe and therefore allege that he consents to act as such executor, and ask that upon his return he be admitted as joint executor with your petitioners.

Prays that said will may be admitted to probate and Letters Testamentary be issued to your petitioners (and that upon the return to this state of said Dr.Edwin S.Breyfogle that Letters Testamentary be also issued to him)

Thos. F. Morrison,

Archibald Mc Donald.

S. F. Leib,

Attorney for Petitioners.

Oct.24 Clerk's Notice fixing November 6th 1896,for hearing application for probate of will, filed.

Oct.24 Clerk's Notice of time and place appointed for hearing on probate of Will,with affidavit of W.Denker, annexed, who deposes: That on October 26th 1896, he deposited in the United States Post Office at the City of San Jose,County of Santa Clara,a true

1896	copy of the within notice, enclosed in an envelope, with the proper and necessary postage prepaid thereon, and addressed to each of the following named persons at their respective places of residences, towit: Vida Field Breyfogle, San Jose, Calif. Charles Edwin Breyfogle, San Jose, Calif., filed.
Nov.6	Affidavit of H. A. De Lacy principal Clerk of the San Jose Mercury Publishing and Printing Company, the printers of the San Jose Daily Mercury, of publication of Notice of time and place for hearing on probate of will of decedent, in said newspaper for eleven successive days from October 25th 1896 to Nov.6th 1896 inclusive, every day, first and last dates inclusive, filed.
Nov.6	Hearing on probate of Will continued to Nov.9,1896. Min.Book 52 p.407.
Nov 9	Testimony on probate of will taken and filed.
Nov 9	Certificate of Proof of Will made and filed.
Nov.9	Order made, entered and filed, admitting Will to probate appointing T. F. Morrison and Archibald McDonald, executors thereof and directing Letters Testamentary to issue to them upon taking the oath with the right to Dr.Edwin S.Breyfogle, now absent from the State of California, to also take out Letters Testamentary herein, upon his return to this State. Pro.Rec.50 p.120.

1896

Nov 12 — Letters Testamentary (with oaths annexed) issued to T.F. Morrison and Archibald Mc Donald, and filed.

Recorded in Book F of Letters Testamentary page 246.

Nov.12 — Order made, entered and filed, directing publication of Notice to Creditors. Pro.Rec 56 p.8.

Nov.12 — Order made, entered and filed, making a family allowance of $100. per month for Vida Field Breyfogle and $40. per month for Charles Edwin Breyfogle.

Pro.Rec.55 p.189.

Nov 20 — Will Roll made and filed and will recorded in Book I of Wills page 559.

1897

Mch 1 — Order appointing Jacob Rich, T. S. Montgomery and C. Barnett appraisers, made, entered and filed.

Pro.Rec.54 p.272

Mch 17 — Inventory and appraisement filed. Shows:

Moneys in hands of Executors $2725.50

Real Estate.

South one half of Lot 5 in Block 4, Range 3 North of the base line in the City of San Jose, County of Santa Clara, State of California, having a frontage of 25 varas on the West line of Third Street and a uniform depth Westerly of 50 varas, with improvements

Appraised at $5850.00

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1897

Lots 1 and 2 as per map of lots in the Morrison Tract formerly property of R. T. Pierce, said map being of record in the office of the County Recorder of said Santa Clara County, in Book B of Maps page 55, records of said Santa Clara County, recorded March 25th 1887, having a frontage of 114 feet on the North side of the Alameda Road, and a uniform depth of 200 feet, being in the said County of Santa Clara, State of California.

Appraised at $3420.00

Lot 3 Block 15 in the University Tract, situate at the South West corner of Elm and Emory Streets, being in the County of Santa Clara, State of California, and being 200 feet square, appraised at $1600.00

Undivided one third interest in that certain piece of land and improvements in the City of San Jose, County of Santa Clara, State of California, described as beginning at the Southwesterly corner of First and Julian Streets; thence Southerly along the Westerly line of First Street 87 6/12 feet; thence at right angles Westerly 100 feet; thence at right angles Northerly 87 6/12 feet to the Southerly line of Julian Street; thence Easterly along the Southerly line of Julian Street 100 feet to the point of beginning, being part of Lot 1 Block 4, Range 1 North of the base line of said City, with improvements, said one third interest appraised at

$8645.80

1897

Lot 3 Block 10 of the Garden City Tract in the County of Santa Clara, State of California, appraised at $200.00

West 50 feet of Lot 3 Block 18 of the University Tract with improvements, in the County of Santa Clara, State of California, appraised at $1000.00

Lots 20 and 21 of Block 3, of the Garden City Tract in the County of Santa Clara, State of California. appraised at $200.00

Lot with improvements at the Northwesterly corner of Third and St. James Streets, in the City of San Jose, County of Santa Clara, State of California, being 91 8/12 feet on the Northerly line of St. James Street by a uniform depth Northerly of 138-3/12 feet: Appraised at $14180.00

Personal property consisting of Bonds, Stocks, Notes, and other property appraised at $44318.00

Total appraised value of estate $82089.30

All of which is the separate property of said deceased.

Duly verified.

1897

May 10 Petition of Edwin S. Breyfogle to be admitted as joint Executor of the Will of decedent and that Letters Testamentary be issued to him, filed.

May 10 Order made, entered and filed, Friday May 21st 1897 fixed for hearing petition of Edwin S. Breyfogle,

1897	and that Notice thereof be given by the Clerk by posting at least ten days before said day of hearing. Pro.Rec.55 p.553.
May 11	Clerk's Notice of time and place for hearing foregoing petition of Edwin S. Breyfogle with affidavit of J. M. Shilue annexed, of posting on May 10th 1897, true copies thereof in three of the most public places in Santa Clara County, filed.
May 21	Order made, entered and filed, appointing Edwin S. Breyfogle joint Executor of the Will of Decedent and directing letters Testamentary to issue to him upon his taking the oath and without giving bond. Pro.Rec.55 p.591.
May 21	Letters Testamentary (with oath annexed) issued to Edwin S. Breyfogle and filed and recorded in Book F Letters page 302.
May 21	Order made, entered and filed, allowing $75. per month for the support of Charles Edwin Breyfogle, incompetent, payable to guardian of said incompetent. Pro.Rec.55 p.593.
1898	
Mch 9	Affidavit of H. A. De Lacy principal Clerk of the San Jose Mercury Publishing and Printing Company, the printers of the San Jose Daily Mercury, of publication of Notice to Creditors, in said newspaper for four successive weeks, from November 17th 1896

1898	to December 17th 1896 inclusive, every day, first and last dates inclusive, filed.
Mch 21	First and final account of Executors with Vouchers filed.
Mch 21	Petition of Executors for distribution of estate, filed.

Recites previous proceedings and shows:
That all the debts of said deceased and of said Estate, and all the expenses of the Administration thereof thus far incurred and all taxes that have attached to or accrued against the said estate, have been paid and discharged, and said estate is now in a condition to be closed.

That the residue of said estate now remaining in the hands of your petitioner is fully set forth and described in the schedule marked "A" hereunto annexed and made a part of this petition.

That the whole of said estate is separate property.

That the said Olivia M. Breyfogle died testate in the County of Santa Clara, State of California, on October 17th 1896, leaving her surviving as devisees under her will Dr. Edwin S. Breyfogle, age 43 years residing at the Palace Hotel, in the City of San Francisco, State of California, Dr. Edwin S. Breyfogle Trustee, residing at the Palace Hotel, in the City of San Francisco, State of California, Stella B.

1898

Mc Donald aged 27 years; residing in the City of Columbus, State of Ohio; Vida Field Breyfogle, aged about 18 years; residing at the North west corner of Third and St. James Streets in the City of San Jose, County of Santa Clara, State of California, That the said Dr. Edwin S. Breyfogle and Dr. Edwin S. Breyfogle, Trustee are one and the same person.

That the said Dr. Edwin S. Breyfogle, Stella B. Mc Donald, and Vida Field Breyfogle, are entitled to the residue of said estate, as follows:

The said Dr. Edwin S. Breyfogle, the portrait of C. W. Breyfogle, given said Olivia M. Breyfogle, by said Dr. Edwin S. Breyfogle, the said Stella B. Mc-Donald and Vida Field Breyfogle, all the household furniture, jewelry, silverware, glassware, pictures, books, ornaments, and wearing apparel, except said portrait in said schedule mentioned:

The said Stella B. Mc Donald an equal undivided third of all the other property in said schedule mentioned.

The said Vida Field Breyfogle the equal undivided third of all the rest and residue of said property in said Schedule mentioned;

The said Dr. Edwin S. Breyfogle, Trustee, the equal undivided third of all the rest and residue of said property in the said schedule mentioned, in trust, for Charles Edwin Breyfogle, to be held by the said Dr. Edwin S. Breyfogle, as such Trustee dur-

1898

ing the life time of said Charles Edwin Breyfogle, but the said Edwin S. Breyfogle as such Trustee is to keep the property thus to be distributed to him invested so as to bring as much revenue as is consistent with safety and out of the property to be so distributed to him, or its revenue, he is to provide for the maintenance and support of said Charles Edwin Breyfogle during his life time, and upon the death of Charles Edwin Breyfogle, the said property to be so distributed to said Trustee, is to go to the said Stella B. Mc Donald, and Vida Field Breyfogle, in equal undivided shares.

Pray that the Administration of said estate may be brought to a close, and that they may be discharged from their trust as such Executors, and after due notice given and proceedings had, the estate remaining in the hands of said petitioners may be distributed to the said parties entitled thereto as aforesaid.

Schedule "A".

Shows same real estate as set forth in the Inventory and appraisement filed, herein)

Personal property

(Consisting of Bonds, Stocks, furniture and other personal as described in Inventory and appraisement herein)

Cash $537.54

1898	
Mch 21	Order appointing Friday April 1st 1898 for hearing on settlement of final account and petition for distribution filed. Pro. Rec. 50 p.485.
Mch 21	Clerk's notice April 1st 1898 fixed for hearing on settlement of final account and petition for distribution filed.
Mch 22	Clerk's notice of time and place for hearing on settlement of final account and petition for distribution, with affidavit of J.M.Shilue,of posting on March 21st 1898 true copies thereof in three of the most public places in Santa Clara County, filed
Apl.1	Decree showing that due and legal notice to Creditors has been given, made, entered and filed. Pro.Rec.56 p.339.
Apl.1	Decree of Settlement of final account and distribution of estate, made, entered and filed. Recites final account and petition for distribution filed herein March 21,1898, proof of notice given by the Clerk of the hearing on said account and petition as directed by the Court, and proofs made on such hearing. Ordered, Adjudged and Decreed that the said final account of said Executors be and the same is hereby finally settled,allowed and approved,and that

1898

the residue of said estate hereinafter described and any other property not now known or discovered which may belong to the said estate, or in which the said estate may have an interest be, and the same is hereby distributed as follows:

To the said Dr. Edwin S. Breyfogle, the portrait of Dr. C. W. Breyfogle given to the said Olivia M. Breyfogle by the said Dr. Edwin S. Breyfogle.

To the said Stella B. Mc Donald, and Vida Field Breyfogle all the household furniture, jewelry, silverware, glassware, pictures, books, ornaments, and wearing apparel, except said portrait.

To the said Stella B.Mc Donald an equal undivided third of all the residue of said property.

To the said Vida Field Breyfogle the equal undivided third of all the rest and residue of said property.

To the said Dr. Edwin S. Breyfogle, Trustee the equal undivided third of all the rest and residue of said property in trust for said Charles Edwin Breyfogle, to be held by the said Dr. Edwin S.Breyfogle, as such Trustee during the lifetime of said Charles Edwin Breyfogle and the said Edwin S.Breyfogle, as such Trustee is to keep the property thus distributed to him, invested so as to bring as much revenue as is consistent with safety, and out of the property so distributed to him or its revenue, he is to provide for the maintenance and support of

1898 said Charles Edwin Breyfogle during his life time, and upon the death of said Charles Edwin Breyfogle the said property so distributed to said Trustee, is to go to said Stella B.Mc Donald,and Vida Field Breyfogle in equal undivided shares.

The following is a particular description of said residue referred to in this decree.

(Same real and personal property as contained in the Inventory and appraisement filed herein) Pro.Rec.59 p.140.

A. S. Kittredge, Superior Judge of the County of Santa Clara,State of California.

N o t e : A certified copy of above decree recorded in Recorder's Office, Santa Clara County, April 8th 1898, in Liber 209 of Deeds Page 348..

July 1 Receipts of Distributees filed.

July 1 Decree of final Discharge of Executors,made, entered and filed. Pro.Rec.58 p.357.

Superior Court

of the

County of Santa Clara.

In the Matter of the Estate

and Guardianship

of

Charles Edwin Breyfogle,

an incompetent person.

Reg. J Page 49. Estate 3822.

1897

May 10 Petition of Edwin S. Breyfogle for appointment as Guardian, filed.

Shows: That he is an uncle of Charles Edwin Breyfogle an incompetent person, that said incompetent person has no guardian legally appointed and is a resident of the County of Santa Clara, State of California, and has estate within said County which needs the care and attention of some fit and proper person; that said Charles Edwin Breyfogle is mentally incompetent to manage his property: that therefore it is necessary and convenient that a guardian be appointed of the person and estate of said incompetent person.

Prays that this Court appoint him guardian of the person and estate of said incompetent person and that this Court cause such notice to be given to

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1897	said incompetent person, as shall on due inquiry be deemed to be reasonable. Dated May 7,1897. (sgd) Edwin S. Breyfogle. (Verified)
May 10	Order directing personal notice of said Petition of Edwin S. Breyfogle, to be given to said Charles Edwin Breyfogle an incompetent person, by citation at least five days before May 21,1897 requiring him to appear before the Court on said 21st day of May 1897, then and there to showcause why said Edwin S. Breyfogle should not be appointed the guardian of his person, and estate, made, entered and filed. Pro.Rec.55 p.583.
May 10	Citation issued.
May 21	Citation returned with Affidavit of Edwin Coolidge (annexed) of service of same on Charles Edwin Breyfogle on May 11,1897 in the County of Santa Clara, State of California, by delivering to and leaving with the said Charles Edwin Breyfogle personally,a copy of said Citation at said time and in said County and State, and filed.
,May 21	Order appointing Edwin S. Breyfogle Guardian of the person and estate of said incompetent and directing Letters of Guardianship to be issued to him upon giving a bond to said incompetent in the sum

1897	of $2500.00 and upon taking and subscribing an oath as required by law, made, entered and filed.
May 21	Bond of Guardian of Incompetent Person, upon qualifying, approved and filed. Recorded in Book G page 280.
May 21	Letters of Guardianship (with oath annexed) issued to Edwin S. Breyfogle, and filed. Recorded in Book F of Letters Page 303.

IN THE SUPERIOR COURT, COUNTY OF SANTA CLARA.

STATE OF CALIFORNIA.

Edwin S. Breyfogle as the Trustee
under the last will of Olivia M.Breyfogle
deceased, of Charles Edwin Breyfogle, Plff.

vs

Charles Edwin Breyfogle Deft.

Case No. 13566. Reg. B p.191.

Dept.No. 3.

1900

Sept.29 Complaint filed. Alleges:

That Olivia M. Breyfogle died in the County of Santa Clara,State of California, on October 17th 1896, and at the date of her death she was a resident of said County, and left both real and personal property therein.

That she left a last will and testament which was thereafter by an order of the Superior Court of the County of Santa Clara, State of California,duly given and made, duly admitted to probate.

That by the terms of said Will an undivided third of all of her property including an undivided third of the real estate left by her was devised to this plaintiff in trust to be held during the lifetime of Charles Edwin Breyfogle,with authority and directions therein for this plaintiff to keep the property thus devised to him invested so as to

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bring as much revenue as was consistent with safety and out of the property so devised to him or its revenue to provide for the maintenance and support of the said Charles Edwin Breyfogle during the life time of the said Charles Edwin Breyfogle and upon the death of the said Charles Edwin Breyfogle, then the said property so devised to plaintiff in trust as aforesaid and which had not been expended for the maintenance of the said Charles Edwin Breyfogle as aforesaid, should be delivered to Stella B. McDonald and Vida Field Breyfogle in fee simple.

That thereafter such proceedings were had in the matter of said estate in the said Superior Court, that on April 1st 1898 the said Superior Court duly gave and made and entered a decree of distribution in the matter of the said estate, whereby an undivided third of all of said property including an undivided third of all the said real estate was distributed in conformity to the terms of said will to said Edwin S. Breyfogle as Trustee, in trust for the said Charles Edwin Breyfogle, to be held by the said Edwin S. Breyfogle as such trustee during the lifetime of said Charles Edwin Breyfogle and that the said Edwin S. Breyfogle as such trustee should keep the property thus distributed to him invested so as to bring as much revenue as is consistent with safety, and out of the said property so distributed to him, or its revenue, that he should provide for

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the maintenance and support of the said Charles Edwin Breyfogle for his lifetime.

And said decree further provided by its terms that upon the death of the said Charles Edwin Breyfogle the said property so distributed to the said trustee should go, and the same was thereby distributed to the said Stella B. Mc Donald, and Vida Field Breyfogle in equal undivided shares.

That the following is the property so left by the said Olivia M. Breyfogle deceased, an undivided third of which was so distributed to said plaintiff as aforesaid, namely:

Those tracts of land situate in the County of Santa Clara, State of California, and described as follows, to wit:

South one half of Lot 5 in Block 4 Range 3 North of the base line in the City of San Jose, County of Santa Clara, State of California, having a frontage of 25 varas on the West line of Third Street and a uniform depth Westerly of 50 varas, with improvements.

Lots 1 and 2 as per map of Lots in the Morrison Tract formerly property of R.T.Pierce, said map being of record in the office of the County Recorder of said Santa Clara County in Book B of Maps page 55 records of said Santa Clara County, recorded March 25th 1887 having a frontage of 114 feet on the North side of the Alameda Road, and a uniform depth

of 200 feet, being in the said County of Santa Clara State of California.

Lot 3 in Block 15 in the University Tract, situate at the Southwest corner of Elm and Emory Street being in the County of Santa Clara, State of California, and being 200 feet square and with improvements.

Undivided one third interest in that certain parcel of land and improvements in the City of San Jose, County of Santa Clara, State of California, described as beginning at the Southwesterly corner of First and Julian Streets. thence Southerly along the Westerly line of First Street 87 6/12 feet; thence at right angles Westerly 100 feet; thence at right angles Northerly 87 6/12 feet to the Southerly line of Julian Street; thence Easterly along the Southerly line of Julian Street 100 feet to the point of beginning, being a part of Lot 1 Block 4 Range 1 North of the base line of said City, with improvements.

Lot 3 Block 10 of the Garden City Tract in the County of Santa Clara, State of California.

West 50 feet of Lot 3 Block 18 of the University Tract with improvements in the County of Santa Clara State of California.

Lots 20 and 21 Block 3 of the Garden City Tract in the County of Santa Clara, State of California.

Lot with improvements at the NorthWesterly corner of Third and St.James Street in the City of San Jose, County of Santa Clara,State of California,being 91 8/12 feet on the Northerly line of St.James Street by a uniform depth Northerly of 138 3/12 feet.

That none of the said real estate is producing any revenue at all commensurate with a fair interest on the value of the same, and if the interest of the plaintiff as such trustee as aforesaid,in each of said tracts of land was sold and the proceeds invested consistent with safety the same would produce a far greater revenue in every instance and as to each tracts of land that it now produces,and plaintiff alleges on his information and belief, that the same would produce more than twice the revenue than the same produces now.

That it would be to the best interest of the said defendant that the interest of the said plaintiff as such trustee in each of the said tracts should be sold and the proceeds invested so as to produce a greater revenue for the benefit of the said defendant.

That much of said real estate produces no revenue whatever and is a mere matter of expense in paying taxes.

That the said Stella B. Mc Donald and Vida Field Breyfogle are the owners of the other undivided two

thirds interest in all of said real estate and also of the residuary interest in the said undivided one third so devised and distributed to this plaintiff in trust as aforesaid or in the proceeds thereof, and are perfectly willing and will consent in a writing to be signed and acknowledged by them and to be filed in this cause, that the interest so held by the said plaintiff as such trustee shall be sold in any or all of said tracts of land whenever in his discretion he deems it best so to do in order to make the same produce a greater revenue.

That this plaintiff claimed and does claim under the terms of said will and decree of distribution aforesaid that he has and had a right, when in his discretion and judgment he thought it best so to do to sell such interest as he might have as such trustee in any of such lands or personal property, in order that he might invest the proceeds so as to produce a greater revenue than is produced in the present form of said property.

Prays the judgment of this Court construing the said will and said decree of distribution as to whether or not this plaintiff, as such trustee, has a right thereunder in cases where in his judgment it is consistent with safety, to change the form of said property, consisting of real estate, by selling and conveying the same and safely investing the proceeds thereof so as to produce a greater revenue

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1900	than said real estate is producing at the present time, And that this Court by its judgment advise and instruct this plaintiff as such trustee as to his rights, powers and duties in such matter and that he be given power as such trustee to sell all the interest that he has as such trustee in each of the said tracts of land and to execute good and sufficient deeds of conveyance upon such sales to the respective purchasers thereof. S. F. Leib, Attorney for Plaintiff. Complaint duly verified by plaintiff Sept.24,1900.
Sept 29	Summons issued.
Oct.5.	Summons returned and filed, with affidavit of B. Grant Taylor annexed, of personal service of a copy of the summons attached to a copy of the complaint in said action on the defendant Charles Edwin Breyfogle, on Sept.29th 1900 in Santa Clara County,Cal.
Oct 5	Admission of Service filed, as follows: "The plaintiff herein hereby admits having been served with a copy of the Complaint and Summons herein, on this first day of October A.D.1900. Edwin S. Breyfogle, as the Guardian of the person and estate of Charles Edwin Breyfogle an Incompetent person."

1900	
Oct.5	Petition of Edwin S. Breyfogle for the appointment of a guardian ad litem for Charles Edwin Breyfogle, to represent his interest in this action, filed.
Oct 5	Order made and filed appointing A.K.Whitton guardian ad litem of Charles Edwin Breyfogle an incompetent, to represent him in this action.
Oct 6	Consent of Stella B. Mc Donald, and Vida F.Breyfogle to entry of decree as prayed for in complaint herein, filed.
Oct 24	Answer of Defendant by his Guardian ad litem A.K. Whitton, filed. Admits all of the allegations of the complaint, and prays the judgment of the Court as prayed for in the complaint herein. Jas. R. Lowe, Atty for said Guardian ad litem. Answer duly verified by A. K. Whitton, Oct.23,1900
Oct 26	Cause set for trial Nov.2d 1900. Min.Book C page 100
Nov.2	Cause on trial, all of the parties appearing, cause submitted and decree ordered as prayed for. Min.Book C page 107.
Nov.2	Findings and Conclusions of law, filed.

1900

Nov.2

Decree made, entered and filed.

Ordered, adjudged and decreed:

First: The will and decree of Distribution mentioned in the complaint herein are construed as follows namely:

Said will and decree of distribution give to such trustee without any order of any Court authorizing or confirming the same, the right and the power to sell, and by proper deed to convey to the purchaser at such sale any part or all of the real estate described in the complaint herein, whenever in his judgment he deems it for the best interests of the cestui que trust, the defendant herein, that such sale and conveyance should be made, and this Court does hereby advise and instruct the plaintiff herein accordingly.

Second: This Court does further order, adjudge and decree that irrespective of the right so given to the said trustee by the terms of the said will, and decree of distribution, said plaintiff as such trustee, has a right and he hereby is given the right and the power to sell and convey without any other order or decree of any Court, all or any part of the real estate described in said complaint upon the ground that the Court has found and does now hereby adjudge and decree that it is for the best interests of the said cestui que trust and all

1900 concerned in said land that he sell and convey the same and convert whatever interest he,as such trustee, has therein, into money so that the same will bring a larger revenue for the benefit of the said cestui que trust.

And it is hereby further ordered adjudged and decreed that the said trustee be, and he hereby is further given the right to make a deed upon any such sale as he has made or may make of any of such property, without any further order or decree of any Court authorizing or confirming the same.

Dated this November 2d A.D.1900.

Judgment Book X page 522. A. L. Rhodes,
Judge of the Superior Court of the
County of Santa Clara,State of
California.

Nov.2 Decree Docketed. Judgment Roll made and filed.

N o t e : A certified copy of foregoing Decree recorded in the County Recorder's office November 9 1900, in Liber 9 Miscellaneous Records page 518.

The foregoing Proceedings consisting of pages One to 51 inclusive, made at SAN JOSE, CALIFORNIA, JANUARY ELEVENTH 1901, at Nine o'clock A.M.

SAN JOSE ABSTRACT COMPANY.

By J C Edwards Manager.